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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/774,968 | 02/09/2004 | Nina L. Walters | Walters 1 | 8770 |

7590 06/19/2007
Michael D. Wiggins
950 Harmon
Birmingham, MI 48009

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| EXAMINER |
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MERCIER, MELISSA S

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| ART UNIT | PAPER NUMBER |
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1615

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| MAIL DATE | DELIVERY MODE |
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06/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 10/774,968 | Applicant(s) WALTERS ET AL. | |
| | Examiner Melissa S. Mercier | Art Unit 1615 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what applicant is claiming by "a fastener that is associated with at least one of said lotion impregnated sheet and said applicator body". It is unclear what association is present. It is also unclear how many lotion-impregnated sheets are to be utilized at a time, since the claim states at least one of said sheets.

The term "substantially" in claim s6 and 11 is a relative term, which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 1615

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg (US Patent 6,981,293).

Steinberg discloses a device for providing self-assisting hygienic activity to individuals of limited dexterity, the device including an elongated body constructed of first and second telescoping portions and terminating at a first end in an ergonomically configured handle. A hygienic related accessory is secured to the other end of the elongated body. The accessory capable of being manipulated relative to the elongated body in at least one of axially extending and angularly configurable fashions and the accessory is further capable of being releasably engageable to the associated end of the elongated body and substituted by at least one alternately configured accessory drawn from at least one of a sponge attachment, lotion dispensing attachment,

disposable sheet attachment, scrub brush attachment and powder applicator attachment (abstract).

Steinberg's figure 8 shows a gripping locations which illustrates a number of individual and flexible leafs arranged in annularly disposed fashion for gripping a selected corner of the attachable sheet (column 3, lines 23-26).

Applicant is reminded that where the general conditions of the claims are met, burden is shifted to applicant to provide a patentable distinction. The prior art reference does not disclose the top surface having an arcuate cross section and a bottom surface having a substantially planar surface, however, barring a showing to criticality of the claimed design, it is the examiners position that it would have been obvious to a person of ordinary skill in the art to design the applicator body in any manner.

It is the examiners position that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have incorporated a lotion impregnated sheet, or in the alternative, it is the examiners position that a disposable sheet attachment would encompass a lotion impregnated sheet, since Steinberg discloses the objective of the apparatus is to provide self-assisting hygienic activity to individuals of limited dexterity (abstract).

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brower et al. (US Patent 6,250,829). In view of Altobellis et al. (US Patent 6,261,014).

Brower discloses an applicator article for the convenient and controlled application of lotion to a user's skin that is impregnated with fluid. The lotion may be a combination of sunscreen and insect repellent (abstract).

Brower does not disclose the use of an application with a handle.

Altobellis discloses a lotion applicator with a flexible handle capable of being oriented in one of a plurality of positions. The handle is interconnected to a rigid plastic applicator head (abstract). Altobellis discloses the outer surface of the applicator as having a rounded, arcuate shape (column 2, lines 27-28). The prior art reference does not disclose a bottom surface having a substantially planar surface, however, barring a showing to criticality of the claimed design, it is the examiners position that it would have been obvious to a person of ordinary skill in the art to design the applicator body in any manner.

Altobellis further provides various drawings, which disclose the applicator head being removable from the handle (see Figures 1-14).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have incorporated the applicator article of Brower with the applicator of Altobellis in order to make a lotion application for applying a hygiene product such as sunscreen, moisturizing lotion, or liquid soap to a persons body, especially in hard to reach portions of the body (column 1, lines 15-18).

Conclusion

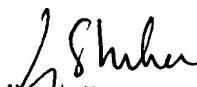
No claims are allowable. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa S. Mercier whose telephone number is (571) 272-9039. The examiner can normally be reached on 7:30am-4pm Mon through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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